

CRS Report for Congress

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Natural Resource Issues in the 106th Congress

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Natural Resources and Earth Sciences Section
Resources, Science, and Industry Division

ABSTRACT

The 106th Congress may consider, through authorizations, appropriations, and/or oversight, several natural resource issues, including some that were debated but not resolved by previous Congresses. The issues addressed in this report, with reference to CRS reports and analysts, include: the natural resources budget; federal lands and resources (minerals; acquisition and disposal of federal lands; national parks and other designations; grazing; federal forests; and payments from federal lands); wild animal and plant issues (Endangered Species Act; Pacific salmon; reauthorization of the Magnuson and Marine Mammal Protection Acts; whaling; animal welfare; aquaculture; and control of non-native species); water resources (water projects; river protection; flood insurance; wetlands; estuaries; and ocean issues); and other issues (private property rights; regional growth; international issues; and strategic and critical materials). This report will be updated near the middle of the first session, and again at the beginning of the second session of the 106th Congress.

Natural Resource Issues in the 106th Congress

Summary

The 106th Congress may consider, through authorizations, appropriations, and/or oversight, several natural resource issues, including some that were debated but not resolved by previous Congresses. The issues are divided into several categories:

- Natural resources budget;
- Federal lands and resources issues — mineral issues; acquisition and disposal of federal lands; national parks and other designations; grazing issues; federal forests; and payments from federal lands;
- Fish and wildlife: wild animal and plant issues — Endangered Species Act; Pacific salmon; reauthorization of the Magnuson Act and the Marine Mammal Protection Act; whaling; animal welfare; aquaculture; and control of non-native species;
- Water resources issues — water projects; river protection; flood insurance; wetlands; estuaries; and ocean issues; and
- Other resource issues — private property rights; regional growth; international issues; and strategic and critical materials.

Each category (except the budget) has multiple entries, preceded by an overview; a few entries are subdivided into narrower discussions. Each entry includes a brief summary, followed by citations to relevant CRS products and the names and telephone numbers of relevant CRS analysts.

There is no “core” natural resource issue, nor does a single committee in either chamber of Congress handle all of these issues. However, three prevalent themes are: (1) current resource uses versus different or longer-term uses; (2) maintaining the *status quo* versus change; and (3) the appropriate fees for using public resources. Many of these issues have been caught up in efforts to balance the federal budget in recent years, but the current budget surplus might change how some of these issues are debated. Moreover, these issues often do not divide along clear party lines; rather, debates tend to separate rural from urban and western from eastern interests.

Many of the issues discussed in this report focus on supplies and management of natural resources. Another frequent concern is environmental quality, such as pollution control. This intertwining of supply and quality is readily apparent, for example, in water issues. For these intertwined issues, if the congressional concern focuses primarily on resource conditions and supply, it is included here; if the concern focuses primarily on pollution control, then it is not. For information on pollution control and related issues, see CRS Issue Brief IB10003, *Environmental Protection Issues in the 106th Congress*. In addition, many natural resource issues, especially those dealing with conditions and uses on private lands, overlap with agricultural topics, which are discussed in CRS Report RS20020, *The Agricultural Economy: Recent Actions and Early Issues for the 106th Congress*.

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Natural Resource Issues in the 106th Congress

Introduction

This report briefly discusses natural resource issues that the 106th Congress may consider. Each entry summarizes the topic, identifies the appropriate CRS products, and includes names and telephone numbers of the relevant CRS analysts. Questions about natural resource topics that are not included, or about natural resources more generally, may be addressed to Ross W. Gorte, head of the Natural Resources and Earth Sciences Section of the Resources, Science, and Industry Division, at 7-7266.

The term “natural resources” includes an array of topics that encompass various approaches and geographic scales. Some are site-specific, such as recreation facilities; others are regional, such as restoring the south Florida or San Francisco Bay-Delta ecosystems; still others deal with specific resources, such as fisheries or forage for livestock. In many instances, these issues do not divide along clear party lines; rather, they often split along rural-urban or eastern-western interests. Many issues transcend individual committee jurisdictions and involve several committees, such as the controversies over wetlands. The sections of this report describe issues concerning federal lands and resources generally, wild animals and plants, water resources, and other topics.

Pressure to address some issues is propelled by expiring funding authorizations, such as those for the Endangered Species Act, the Magnuson-Stevens Fishery Act, and the Marine Mammal Protection Act. Others may be discussed during debates about current priorities in annual appropriations. In addition, the 106th Congress will actively oversee operations as departments and agencies submit their FY2000 budget proposals and implement their strategic plans required under the Government Performance and Results Act (GPRA), and as the Clinton Administration continues efforts to downsize and reinvent the federal government.

The 105th Congress was often at odds with the Administration, but still enacted several laws that were significant for natural resources, such as the National Wildlife Refuge System Improvement Act, the National Parks Omnibus Management Act, and several provisions in the FY1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act (*e.g.*, the Quincy Library Group Forest Recovery Act and the American Fisheries Act). The 105th Congress also questioned Administration efforts, such as the American Heritage Rivers initiative, that were not authorized by Congress.

A number of issues involve natural resources as one of many components. Typically, these issues have resource supply and environmental quality dimensions. Environmental quality, in this context, is usually pollution prevention or abatement. This intertwining of supply and quality is apparent in many topics, such as water

quality. Intertwined issues are included in this report only if the primary congressional concern focuses on resource conditions or supply. For information on environmental quality topics, such as reauthorization of the Clean Water Act and clean air issues, see CRS Issue Brief IB10003, *Environmental Protection Issues in the 106th Congress*. In addition, many natural resource issues, especially ones dealing with resource conditions and uses on private lands, overlap with agricultural topics, which are discussed in CRS Report RS20020, *The Agricultural Economy: Recent Actions and Early Issues for the 106th Congress*.

Natural Resources Budget

Most natural resource programs are included in budget function 300 (natural resources and environment) of the federal budget, under subfunctions 301 (water resources), 302 (conservation and land management), 303 (recreation resources), and 306 (other natural resources). Table 1 shows FY1992-FY1999 budget authority for these natural resource programs.

From FY1991-FY1994, budget authority appropriated for natural resource programs increased from approximately \$13 billion to \$16.1 billion. However, FY1995 budget authority decreased to \$15.2 billion and remained at that level in FY1996. Budget authority increased to \$16.5 billion in FY1997 and declined to \$16.0 billion for FY1998 and to \$15.7 billion for FY1999.

Most natural resource programs are funded annually in three appropriation bills: Interior and Related Agencies; Energy and Water Development (P.L. 105-245 for FY 1999); and Commerce, Justice, and State, the Judiciary and Related Agencies. For FY1999, both Interior and Commerce appropriations were included in the FY1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act (P.L. 105-277). The appendix provides appropriations data for selected natural resource agencies and programs included in these three appropriations measures for FY1996, FY1997, FY1998, and FY1999.

CRS Reports:

- 98-206 ENR, *Appropriations for FY1999: Interior and Related Agencies*;
- 98-207 ENR, *Appropriations for FY1999: Energy and Water Development*;
- 98-209 E, *Appropriations for FY1999: Commerce, Justice, and State, the Judiciary, and Related Agencies*.

CRS Contacts:

Rick Greenwood at 7-7236 (for the Interior appropriations bill); Mark Humphries at 7-7264 (for the Energy and Water appropriations bill); Carl Behrens at 7-8303 (for the Energy and Water appropriations bill); and Edward Knight at 7-7785 (for the Commerce appropriations bill).

Table 1. Budget Authority Under Function 300, Natural Resources and Environment
(in millions of dollars)

Budget Functions & Programs	1992	1993	1994	1995	1996	1997	1998	1999
301 Water Resources	4,768	4,801	5,340	4,212	4,254	5,283	5,096	4,876
Corps of Engineers								
Bureau of Reclamation								
Department of State [international commission]								
Delaware River Basin Commission								
Susquehanna River Basin, etc.								
302 Conservation & Land Mgmt.	4,652	4,775	5,190	5,392	5,577	5,396	4,737	4,857
Forest Service								
Soil Conservation Service								
Bureau of Land Management								
Minerals Management Service								
Office of Surface Mining Reclamation and Enforcement								
Bureau of Indian Affairs								
Department of State [international commission]								
Marine Mammal Commission								
303 Recreation Resources	2,690	2,604	2,792	2,734	2,651	3,074	3,368	2,935
Corps of Engineers								
Forest Service								
Fish & Wildlife Service								
National Park Service								
Advisory Council on Historic Preservation								
306 Other Natural Resources	2,575	2,546	2,770	2,831	2,698	2,719	2,827	3,055
National Oceanic and Atmospheric Administration								
U.S. Geological Survey								
Bureau of Mines [abolished as of September 30, 1996]								
Office of Secretary [Interior]								
Office of Solicitor and Office of Inspector General [Interior]								
TOTAL, Natural Resources	14,685	14,726	16,092	15,169	15,180	16,472	16,028	15,723

SOURCE: Executive Office of the President, Office of Management and Budget. *Budget of the United States, Fiscal Year 1999: Historical Tables*. Washington, DC: U.S. Govt. Print. Off., 1998. p. 77-78. and the Congressional Budget Office, Budget Analysis Division.

Federal Lands and Resources Issues

Overview

Competing demands for access to and use of natural resources on federal lands have drawn congressional attention for more than two centuries. The federal government owns 657 million acres, approximately 29% of the landmass of the United States. These lands are concentrated in Alaska (243 million acres, 66% of the state) and 11 contiguous western states (361 million acres; 48% of those states, ranging from 27% of Washington to 83% of Nevada). This federal presence continues to raise concerns among some westerners about the degree of federal influence within their states.

Four federal agencies administer about 95% of the federal land for a variety of uses generally related to conserving, preserving, and developing natural resources. These agencies are:

- the Bureau of Land Management (BLM) in the Department of the Interior (264 million acres);
- the Forest Service in the Department of Agriculture (192 million acres);
- the Fish and Wildlife Service (FWS) in the Department of the Interior (93 million acres); and
- the National Park Service in the Department of the Interior (77 million acres).

Conflicts over federal land management stem primarily from different perspectives over how the lands and resources should be used and protected. Many programs focus on resource extraction or development — timber harvesting, mining, grazing, *etc.* — while many others aim to preserve areas in their natural state or to protect specific resources. Increasing population, changing demographics and lifestyles, and shifting public attitudes toward federal land ownership and toward the federal government all contribute to the continuing debate over the management of federal lands and resources.

Federal land management issues that may be addressed by the 106th Congress include those considered but not resolved during the 105th Congress. The issues may include: energy and mineral issues (Arctic oil, oil valuation, and mining law); acquisition and disposal or transfer of federal lands; national park and other designations; resource conditions and management (grazing fees and rangeland management, and federal forests); and federal payments to state and local governments.

CRS Reports:

- 98-991 ENR, *Federal Land Management Agencies: Background on Land and Resources Management*;
- 98-36 ENR, *Federal Land Ownership: Constitutional Authority and the History of Acquisition, Disposal, and Retention*;
- RS20002, *Federal Land and Resource Management: A Primer*;
- 98-980 ENR, *Federal Sales of Natural Resources: Allocation and Pricing Systems*;

- S. Prt 103-98, prepared by CRS for the Senate Committee on Environment and Public Works, *Ecosystem Management: Status and Potential*; and
- Committee Print No. 11 (1992), prepared by CRS for the House Committee on Interior and Insular Affairs, *Multiple Use and Sustained Yield: Changing Philosophies for Federal Land Management?*

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Mineral Issues

Arctic Oil: East or West? The question of oil development in northern Alaska is divided into two parts. There is the long-standing controversy over proposals to open the Arctic National Wildlife Refuge (ANWR) for oil exploration and development, and rekindled interest in oil development in the National Petroleum Reserve-Alaska (NPRA). The coastal plain lies between the foothills of the Brooks Range to the south and the Arctic Ocean to the north, and stretches from the Canadian border west to the Bering Strait; the coastal plain in the Arctic Refuge is barely 10 miles wide. West of ANWR is the vast and aging developed oil field centered around Prudhoe Bay. And west of both Prudhoe Bay and the Arctic Refuge lies the NPRA, where the coastal plain broadens to over 100 miles wide. For both ANWR and NPRA, the economic driving forces are the twin goals of state and federal revenues (from various taxes, plus bids and royalty payments), and the need to maintain adequate oil production to support the infrastructure to pump the oil to Prince William Sound in southern Alaska where it is loaded on tankers. The driving environmental forces are the threat of environmental damage and the maintenance of some of the least disturbed areas in North America.

Under current law, neither exploration nor development can proceed in ANWR without specific action by Congress. Refuge development was debated in the 104th Congress for possible inclusion in budget reconciliation. The provision drew a veto threat from the Clinton Administration, and was not included in the final law. There was no action on this issue in the 105th Congress, although two bills (H.R. 900 and S. 531) were introduced to add the coastal plain portion of ANWR to the wilderness system, which would, among other things, preclude commercial energy activity.

The conflict between petroleum leasing and other resources in the Arctic Refuge arises at two levels. At the on-site, ground level, those advocating development claim that ANWR can be developed without significant environmental damage to the landscape or the plants and animals depending on it, and cite the operations at the nearby Prudhoe Bay oil complex as evidence. They note further that the “footprint” of development under newer technology is far smaller than it was 20 years ago, and that early exploration now can have less impact. Those advocating continued preservation argue that the record at Prudhoe is not unblemished, note the oil spill from the *Exxon Valdez*, and cite the uncertain effects of oil development on the Porcupine Caribou Herd, which is vital to subsistence hunters in both Alaska and Canada.

At a more qualitative level, opponents of development argue that, regardless of any mitigation, what would remain after decades of development would no longer be wilderness, and could never return to being one of the most wild and untouched places in North America. Supporters of development, while not contesting this point directly, argue that development is needed for jobs, economic growth (particularly in Alaska), income to certain native communities, and reduced dependence on foreign oil.

The basic arguments in the debate over the 23.5 million acre NPRA are similar, but with some important variations. First, the NPRA was set aside in 1923 by President Harding to provide for oil and gas for naval defense. Oil seeps and surface geology suggest the presence of oil, and the Navy and the Department of the Interior have both conducted exploratory drilling programs in the past. But current expectations are that the area does not contain the quantities of oil that have been found at Prudhoe or even the amounts that are estimated in ANWR. Its major economic contribution would be to maintain the economic viability of the Trans Alaskan Pipeline System (TAPS) as flows from Prudhoe decline. Second, although both NPRA and the Arctic Refuge fall under the jurisdiction of DOI, their energy development would occur under different laws. Congress would need to pass legislation to allow development in ANWR, but not in NPRA. A field at the western edge of the Prudhoe development has suggested that commercially recoverable quantities of oil may yet be found in the NPRA. An Environmental Impact Statement (available at <http://aurora.ak.blm.gov/npra/final/html/rodtitle.html>) examined leasing alternatives and studied a large herd of caribou, as well as musk oxen, wolves, grizzly and polar bears, and other species. When the final EIS was issued in August 1998, Secretary Babbitt announced a proposal to make available for leasing about 4 million acres in the northeast quadrant of the NPRA closest to existing facilities at Prudhoe Bay; this proposal became effective in December 1998.

CRS Reports:

- IB95071 (archived), *The Arctic National Wildlife Refuge*.

CRS Contacts:

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Federal Oil Valuation. The Minerals Management Service (MMS) has proposed new rules that would establish oil value for royalty purposes differently than in the past. The proposed rule change would rely less on posted prices and more on an index price to better reflect fair market value and to prevent the underpayment of royalties to the federal government. Oil industry officials have criticized using index prices as a benchmark and have offered a number of other benchmark and valuation options. Details of the proposed rule were provided to the House and Senate in August 1998, but language in the FY1999 Omnibus Appropriations Act (P.L. 105-277) postponed the release of the new rule until June 1, 1999. House and Senate conferees believe that the delay will allow for a rule that is fair both to the industry and to the U.S. Government. However, critics argue that the delay will continue to cost taxpayers millions of dollars in underpaid royalties from federal oil leases.

One option for oil valuation that is being carefully studied by MMS, Congress, and the industry is a royalty-in-kind (RIK) system for federal oil and gas leases. A RIK system would allow MMS to receive royalties in the form of oil or gas, then resell the commodity for cash. H.R. 3334 and S. 190, in the 105th Congress, would have established a RIK system for all oil and gas produced on federal lands. House hearings were held and the subcommittee forwarded the bill, but no further action was taken. A RIK bill is expected to be reintroduced in the House and the Senate early in the 106th Congress. MMS states that legislation is not necessary to implement a RIK program and a RIK system may not be efficient for all federal oil and gas leases. Meanwhile, MMS is conducting a RIK pilot study that includes oil production in Wyoming, and natural gas production in the Gulf of Mexico and offshore Texas (two separate areas). This pilot will take several years to complete.

CRS Reports:

- IB10005, *Outer Continental Shelf: Oil and Gas Leasing and Revenue*.

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Mining Law. The law authorizing development of most hardrock minerals on public lands is 127 years old. It allows a person or company to enter unreserved public lands, to prospect freely, and to file and hold a mining claim for nominal fees. Claimants may develop the minerals within a claim without paying any royalties and may “patent” the lands, obtaining full title to both the land and the minerals for a modest fee. Critics contend that this is a giveaway of valuable assets and disrupts management of the remaining federal lands, while supporters claim that low-cost access and security of tenure are necessary to the economic viability of the mining industry and benefit the economy.

Legislation addressing these issues has been considered, but not enacted. Several mining law reform proposals were introduced in the 105th Congress (H.R. 253, S. 327, and S. 1102). Debate over legislation in the 105th Congress focused on environmental provisions and the appropriate level and extent of royalty payments. A one-year moratorium on processing patents has been included in the past few Interior appropriations bills, and was included for FY1999; Congress also extended the annual maintenance fee of \$100 per claim through FY2001 in the FY1999 Omnibus Appropriations Act (P.L. 105-277).

CRS Reports:

- IB89130, *The 1872 Mining Law: Time for Reform?*

CRS Contacts:

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Federal Land Acquisition and Disposal

Disposal and Non-Federal Management of Federal Lands. Disposal (sale or transfer) of some federal lands may again be considered. Recurring efforts have been made to transfer ownership and/or management of at least the BLM lands to the

states, but foundered when the privatization effort shifted to land sales (the states didn't want to buy the lands) and when national forests in the east were included (many Members wanted to retain federal lands in their states).

Privatization has been a theme of some Members focusing on reducing the size of the federal government and providing additional income to the U.S. Treasury. While little action occurred on this issue in the 105th Congress, discussions of transferring or selling some federal lands could be renewed in the 106th Congress.

Increasing nonfederal management of federal lands may also be debated. The National Park Service and the other agencies have long used contracts to administer commercial facilities (*e.g.*, lodges and restaurants) and to conduct activities (*e.g.*, guides and outfitters). The Forest Service has experimented with land management service contracts to exchange timber for contractor services, and legislation to direct demonstration projects was considered in the 105th Congress. Because expanded contracting for government operations has been a theme in many Republican budget proposals, private contracting or state management of federal lands continues to attract interest.

CRS Reports:

- 96-919 ENR, *Federal Land Disposal: Legislative Initiatives in the 104th Congress*; and
- 98-36 ENR, *Federal Land Ownership: Constitutional Authority and the History of Acquisition, Disposal, and Retention*.

CRS Contacts:

Ross W. Gorte at 7-7266 (for Forest Service); Betsy A. Cody at 7-7229 (for BLM and Bureau of Reclamation); David Whiteman at 7-7786 (for National Park Service); or Pamela Baldwin at 7-8597 (for legal issues).

Highway Rights of Way Across Public Lands: R.S. 2477. In 1866, in an act that became Revised Statute (R.S.) 2477, Congress granted rights of way across unreserved public lands “for the construction of highways.” This grant was repealed in the Federal Land Policy and Management Act of 1976 (P. L. 94-579), but existing rights were protected. What constitutes construction of highways and whether a qualifying right of way existed in 1976 can be contentious issues. Whether R.S. 2477 rights of way exist across federal lands can influence the management of those lands and possibly their suitability for wilderness consideration.

For much of the time between 1866 and 1976, as the West was being settled, state law largely governed the validity of highways under R.S. 2477, although federal law provides the parameters of the grants. The laws in many states were clear as to when a public highway was established and few issues remain; in other states, such as Utah and Alaska, the situation is much less clear. In 1988, the Department of the Interior issued a policy on the subject that defined certain terms. At the request of Congress, the Department submitted a study of R.S. 2477 issues in June 1993 and proposed regulations to process R.S. 2477 claims in the August 1, 1994 *Federal Register*. These regulations met with congressional opposition and resulted in a prohibition on using FY1996 funds to promulgate or implement a rule concerning R.S. 2477 rights of way (P.L. 104-134). Section 108 of the Department's FY1997

appropriations (P.L. 104-208) stated that final regulations would not take effect unless expressly authorized by an Act of Congress.

On January 22, 1997, Secretary Babbitt issued a new policy on R.S. 2477 that revoked the 1988 policy and changed some of the relevant definitions. However, Secretary Babbitt also instructed the BLM to defer processing of R.S. 2477 claims except in cases where there is a “demonstrated, compelling, and immediate need to make such determinations,” and the Forest Service has followed suit. As part of the compromise in the 104th Congress, the Administration submitted a legislative proposal on R.S. 2477, but no bill was introduced in the 105th Congress. Language that again would have prohibited final R.S. 2477 regulations was deleted from the Interior Appropriations Act for FY 1998 (P.L. 105-83) in reliance on the assertion that the language in the 1997 Omnibus Appropriations Act was permanent law and hence an additional enactment is unnecessary. (See the Conference Report, H.Rept. 105-337, at 74.) Similarly, there was no R.S. 2477 language in the FY1999 Omnibus Appropriations Act (P.L. 105-277).

CRS Reports:

- 93-74 A, *Highway Rights of Way: The Controversy Over Claims Under R.S. 2477.*

CRS Contact:

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Federal Land Acquisition. The “checkerboard” ownership patterns among federal, state, and private landowners in many western states complicate land and resource management for all landowners. Although BLM and Forest Service have moved toward consolidating land ownership through acquisition, transfers, and land exchanges, the process has been slow. Interest in removing obstacles to land consolidation efforts may resurface in the 106th Congress.

The federal government also continues to purchase some private lands to add to those already managed by the various federal agencies. Typically, the lands are inholdings (surrounded by federal lands) or contain special values (*e.g.*, valuable animal habitats, or cultural, or historical resources).

Most federal land acquisition has been funded through the Land and Water Conservation Fund (LWCF); the LWCF Act also authorizes a matching grant program for planning, acquiring, and developing state and local outdoor recreation projects. Annual appropriations are required before agencies can spend the LWCF funds. Appropriations are authorized at \$900 million per year, but have been less than \$300 million annually over the past decade. However, the 1997 budget agreement led to a one-time appropriation of \$699 million for priority land acquisitions, and Congress also appropriated \$270 million for other acquisitions, bringing the FY1998 total to an unprecedented \$969 million. All these funds have gone (or will, as some have yet to be released) to the four federal land management agencies; the state grant program went unfunded for the fourth straight year. Bills to permanently authorize expenditures, to temporarily increase spending, and to increase funding for state grants have been introduced in several Congresses, including the 105th Congress, but none was enacted.

The Migratory Bird Conservation Fund is a second major source of funds for acquisition, but is only available to FWS to acquire lands. The fund is permanently appropriated to the extent of receipts. In FY1999, it is expected to provide about \$39.5 million for acquiring migratory bird habitat for the National Wildlife Refuge System.

CRS Reports:

- 97-792 ENR, *Land and Water Conservation Fund: Current Funding and Other Issues.*

CRS Contacts:

Jeffrey A. Zinn at 7-7257 (for LWCF); David Whiteman at 7-7786 (for Park Service); Ross W. Gorte at 7-7266 (for Forest Service); Betsy A. Cody at 7-7229 (for BLM); M. Lynne Corn at 7-7267 (for Fish and Wildlife Service); or Pamela Baldwin at 7-8597 (for legal issues).

National Parks and Other Conservation Designations

Park Operations and Management. The National Park System includes 54 national parks and 324 other units totaling more than 83 million acres in 49 states, the District of Columbia, and several U.S. territories. In addition to national parks, the System contains: national preserves, monuments, battlefields, recreation areas, seashores, and numerous other types of designations — 22 categories in all. Because of the variety of designations and the perception of lesser status for units lacking the “national park” designation, Congress clarified in two Acts in the 1970s that all units in the System are of equal value and are entitled to the same system-wide standards of protection as were prescribed in the Organic Act of 1916. The Park Service has the often contradictory dual mission of facilitating access and serving visitors while protecting the natural, historic, and cultural resources entrusted to it.

Over the years, Congress has continued to add new units to the Park System, and has expanded the management responsibilities. Increased numbers of visitors — more than 270 million annually in recent years — provided additional pressures on the System’s resources. These pressures combined with years of tight operating budgets to result in the accumulation of a system-wide multi-billion dollar backlog of deferred maintenance. In FY1996, the government shutdowns resulting from the budget stalemate led to controversial temporary closures of NPS units. These unpopular closures mobilized public support for expanding NPS funding, which has increased annually since FY1996. Congressional oversight in recent years has focused on strengthening NPS management, planning, and operational efficiency.

In addition, Congress established the recreation fee demonstration program in the FY1996 Omnibus Appropriations Act (P.L. 104-134). This program is designed to supplement agency appropriations with increased entrance and user fees retained locally, rather than being returned to the General Treasury, to encourage managers to be more aggressive in pursuing “self-financing” initiatives for funding operations and maintenance. The program was extended through FY2005 in the National Parks Omnibus Management Act of 1998 (P.L. 105-391), discussed below.

Finally, the 106th Congress will likely face mounting pressure to address the controversial and often emotional issue of “appropriate use” related to the rapid growth of using machines (aircraft, snowmobiles, jet skis, *etc.*) in some national park units. An initiative to establish a national policy for regulating commercial air tour overflights of national parks was included in an omnibus aviation policy bill, on which the 105th Congress failed to complete conference action; it has been reintroduced in the 106th Congress both as a stand-alone bill (S. 81) and as part of a bill to reauthorize Federal Aviation Administration (FAA) programs (S. 82). In addition, a coalition of 60 environmental groups has asked five federal agencies to study various health, safety, and ecological effects of snowmobile noise and emissions, and to prohibit or regulate their continued use. In September 1998, the Park Service began a rulemaking process to develop regulations for managing personal watercraft use in the Park System.

CRS Reports:

- 98-794 ENR, *Federal Recreational Fees: Demonstration Program*;
- S.Prt. 105-53, prepared by CRS for the Senate Committee on Energy and Natural Resources, *Outdoor Recreation: a Reader for Congress*; and
- 95-105 ENR, *State Operation of National Parks During Government Budgetary Shutdowns*.

CRS Contacts:

David Whiteman at 7-7786

National Park Designations. Nearly every Congress sees many parks bills, often focused on designating specific areas or sites for particular purposes or for boundary and other adjustments. In recent years, legislative strategists have often successfully packaged a diversity of stand-alone bills into omnibus park measures designed for expedited passage in the closing days of a Congress. Because these omnibus measures usually include many projects in many states, they have sometimes been pejoratively characterized as “park barrel” or “park pork” bills. Such omnibus proposals used to emerge once or twice a decade, but now seem to come with greater frequency.

At the close of the second session, the 104th Congress enacted the Omnibus Parks and Public Lands Act of 1996 (P.L. 104-333), containing 113 separate provisions affecting 120 areas in 41 states. The centerpiece established a trust corporation to manage, maintain, and improve 80% of the historic former Presidio Army Base in San Francisco. Prior to enactment, Congress removed several significant but controversial provisions, such as concessions policy reform, entrance and user fee changes, a heritage area program (see below), and corporate sponsorship of national parks.

Some of those provisions were expected to be considered early in the 105th Congress, but little transpired until the second session, when two omnibus parks bills emerged. The House bill (H.R. 4570) with more than 80 separate bills was defeated on the floor (123-302) after environmental groups campaigned against the numerous “environmentally destructive” provisions and the Administration promised a veto. The Senate bill (S. 1963), the National Park Omnibus Management Act of 1998, was enacted (P.L. 105-391) after last-minute negotiations with the Interior Secretary

produced a compromise on concessions policy reform. Also at the end, the House removed a provision to require commercial photographers and filmmakers to pay a portion of their production budgets to finance resource protection; this provision has been reintroduced as a stand-alone bill in the 106th Congress.

The new law eliminates preferential rights of renewal for concession holders, creates a competitive bidding process, and allows concession revenues to be retained by the Parks without annual appropriations. The law also provides more stringent criteria for additions to the Park System, reinvigorates the NPS science program, requires the agency to establish a general management strategy for the Park System, extends the Recreational Fee Demonstration Program, and mandates more budget analysis, audits, and employee training.

On a separate issue, Utah Republican Members of Congress and most Utah state officials were angered at the Presidential proclamation of the 1.7 million-acre Grand Staircase-Escalante National Monument in September 1996, using the authority under the Antiquities Act of 1906. (Many other Presidents have used this authority.) Clinton's action, widely praised by environmentalists, was alleged to be aimed at ending a congressional stalemate over BLM wilderness designations in Utah. The House approved a bill introduced by opponents of this designation, to end unilateral Presidential designations of national monuments larger than 50,000 acres, but the Senate did not follow suit.

CRS Reports:

- 98-993 ENR, *Grand Staircase-Escalante National Monument*.

CRS Contacts:

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Heritage Areas and Partnerships. While most NPS programs focus on preserving natural and cultural values at the national level, the agency currently has programs that promote and assist similar efforts by state, tribal, and local governments. Congressionally designated “national heritage areas” are an approach where the NPS, acting as a catalyst, supports nonfederal conservation goals through “seed money,” recognition, and technical assistance, usually for a limited period.

Current heritage area initiatives are generally intended to recognize and help preserve locally significant natural, scenic, historic, cultural, and recreational resources that may lack the stature and national significance to qualify for inclusion in the National Park System. Under most initiatives, NPS would assist communities in attaining the National Heritage Area designation and in initial planning for the area's management, but would provide neither ongoing NPS technical nor financial support; the areas would typically be managed by state, tribal, or local governments or by private non-profit groups. Most initiatives would not lead the NPS to acquire new lands, and designation as a National Heritage Area would bring no federal regulation of private property. Private property rights advocates and others have opposed the idea on grounds that the program could be used to exert federal control over non-federal lands.

Legislation to create a National Heritage Area program — to prioritize and standardize the designation process — was debated but not enacted in the 103rd and 104th Congresses. The 1996 Omnibus Parks Act (P.L. 104-333) established nine new areas (with limited authorized funding for them) and modified several existing ones, but a provision creating a comprehensive heritage area program was removed at the last moment. The FY1998 Interior Appropriations Act established and funded a Heritage Partnership Program similar to the previous Heritage Area Program legislation; it was designed mainly to cover the nine heritage areas created in 1996, but also to fund previously established areas and allowed funds to be shifted to assist new areas. This program was again funded in the FY1999 Omnibus Appropriations Act (P.L. 105-277), but the Appropriations Committees instructed the NPS that the funds should be used only for the nine areas established in the 1996 Omnibus Parks Act.

Six national heritage areas or “corridors” were established by Congress prior to the 1996 Omnibus Parks Act. Four of these areas (the heritage corridors) are considered to be “Affiliated Areas” of the NPS, a slightly different status classification from the National Heritage Areas; affiliated areas include a variety of significant properties outside the Park System that are neither federally owned nor directly administered by the Park Service. However, affiliated areas (including the pre-1996 national heritage corridors) qualify for ongoing technical and/or financial assistance under NPS appropriations for “Statutory or Contractual Aid.”

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Wilderness and Other Designations. Many types of federal lands have been designated by Congress for special purposes. Wilderness areas and national trails are systems of identified units with common management guidelines, although a wide variety of other designations exist. (Designations of wild and scenic rivers and of American heritage rivers are discussed below, under Water Resources Issues.) In addition, concerns have been expressed over some United Nations designations associated with U.S. federal lands.

The 1964 Wilderness Act (P.L. 88-577) established the National Wilderness Preservation System to permanently protect designated undeveloped federal areas. Only Congress can add wilderness areas as part of the System. (Under general management authorities, federal agencies can also generally preserve undeveloped areas, even though the areas have not been designated as part of the Wilderness System by Congress.) Congress designated 54 wilderness areas with 9 million national forest acres in the 1964 Act; subsequent legislation has increased the wilderness system to 631 areas, totaling nearly 104 million federal acres. Wilderness designations can be controversial, because development is largely precluded from wilderness areas. The 105th Congress enacted few new designations (including two contingent upon land exchanges occurring) and two modest wilderness deletions. Wilderness designations may be more controversial in the 106th Congress, as the Administration has proposed several wilderness areas as part of its Land Legacy Initiative. (For a discussion of this initiative, see the section on *Regional Growth*, under *Other Resource Issues*).

The 1968 National Trails System Act (P.L. 90-543) authorized a national system of trails to provide additional recreational opportunities and promote access to natural and historic areas. The Act established the Appalachian and Pacific Crest National Scenic Trails, authorized a system of scenic, historic, recreation, and connecting trails, and defined the methods and standards for adding segments. There are now 20 scenic and historic trails (with more than 40,000 miles), 2 connecting trails, and more than 800 recreation trails and 1,000 rails-to-trails conversions. Legislation to authorize a new trail category, "discovery trails," and to establish the American Discovery Trail was considered but not enacted by the 105th Congress. Funding continues to be a concern, although the Transportation Equity Act for the 21st Century (TEA-21) provided some funding avenues for state and local governments to develop and maintain trails.

Concerns were raised during the 104th and 105th Congresses over U.S. participation in the 1972 World Heritage Convention and in the Biosphere Reserves Program under the U.N. Man and Biosphere Program (MAB). World Heritage sites are recognized by the U.N. for their cultural or natural significance for all humanity. Biosphere Reserves are sites that meet U.N. criteria for scientific research in a variety of types of natural ecosystems. Typically, the Administration nominates sites for recognition under both programs, and only then does the U.N. act to approve the nomination. The U. N. does not exercise any control or jurisdiction over designated areas. Opponents of these programs are concerned about further designations and the role of the U.N. In the 105th Congress, competing bills — to require congressional approval of any nominations, or to provide authorization for U.S. participation in the programs without major changes in current procedures — were debated, and FY1998 and FY1999 appropriations bills contained provisions to prohibit use of funds to participate in these programs.

CRS Reports:

- 96-517 ENR, *Biosphere Reserves: Fact Sheet*;
- 98-981 ENR, *The National Trails System: An Overview*;
- 98-848 ENR, *Wilderness Laws: Prohibited and Permitted Uses*;
- 94-796 ENR, *Wilderness: Overview and Statistics*; and
- 96-395 F, *World Heritage Convention and U.S. National Parks*.

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Grazing Fees and Rangeland Management

For decades, the federal government has charged private livestock owners for grazing cattle and sheep on federal lands. These fees generally do not cover federal range management costs and arguably are less than fees for using comparable private lands. Citing concern over the condition of federal rangelands and program costs, the Clinton Administration issued new rules for rangeland management, which took effect in 1995. These rules remain controversial. Generally, ranching interests fear the regulations will prove to be overly burdensome and will restrict the number of cattle allowed on public lands, and perhaps increase operating costs. Efforts were made in

the 104th and 105th Congresses to override the regulations, and these rules may be a focus of activity in the 106th Congress as well.

In the 105th Congress, the House passed a grazing bill, but the Senate did not. The House bill, the Forage Improvement Act of 1997 (H.R. 2493), addressed fewer issues than did earlier bills. It contained a new grazing fee formula, advocated as likely to result in more stable fees. An amendment to provide different fees for large and small operators was defeated, but a separate and probably higher fee for foreign grazers was agreed to.

Fee and non-fee issues may continue to be controversial in the 106th Congress. Rangeland condition has been a sustained area of interest for environmentalists and ranchers; however, proposals to improve and monitor range conditions vary widely. The process for making federal rangeland management decisions may be discussed, especially the level of public participation and access. The composition and role of Resource Advisory Councils may also be a focus. Other possible areas of interest include subleasing and access across private lands.

CRS Reports:

- IB96006, *Grazing Fees and Rangeland Management*;
- 96-540 ENR, *Grazing Fees: An Overview*;
- 96-97 ENR, *Survey of Grazing Programs in Western States*; and
- 98-40 A, *The Forage Improvement Act of 1997: An Analysis of H.R. 2493*.

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Federal Forests

Federal forestry issues continue to be controversial. Much of the attention in recent years has focused on concerns about the health of federal forests, especially in the interior West. Some efforts to address forest health have been broadened to encompass concerns that planning and management of federal forests have generally been expensive and ineffective. In addition, concerns about Forest Service financial accountability have attracted congressional attention in the past few years.

Forest Health. Concerns have been raised about the health of federal forests, especially in the West. Timber mortality, due to an extended drought and to insect and disease infestations, apparently contributed to the extent and severity of the numerous forest fires in the summer of 1994. Many believe that actions to improve forest health, including salvage of dead and dying trees, would protect both national forests and nearby private lands and homes. In 1995, Congress enacted the Emergency Salvage Timber Sale Program (§2001 of the 1995 Rescissions Act, P.L. 104-19) to improve forest health while increasing the supply of timber for the wood products industry and precluding most challenges to agency decisions. (This program expired at the end of December 1996.) Critics argued that the salvage sales further degraded forest health, that agency timber programs have emphasized cutting green

trees while losing money, and that real forest health improvements would likely be expensive.

Late in the 104th Congress, the Senate Energy and Natural Resources Committee reported a forest health bill, but negotiations on a bipartisan substitute to debate on the Senate floor were unsuccessful. In the 105th Congress, the House Agriculture Committee reported a narrower forest health bill, but it was defeated on the House floor; the Senate has rolled such efforts into the larger debate over forest management (see below). Land management service contracts, forest health credits, and other options have been suggested as ways to improve forest health while still harvesting some timber. These issues seem likely to be considered again in the 106th Congress.

CRS Reports:

- 95-511 ENR, *Forest Fires and Forest Health*;
- 95-548 ENR, *Forest Health: Overview*;
- 96-569 ENR, *The Salvage Timber Sale Rider: Overview and Policy Issues*;
- 95-364 ENR, *Salvage Timber Sales and Forest Health*; and
- 96-163 A, *The “Timber Rider”: Section 2001 of the Rescissions Act*.

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Forest Management. Management of federal forests — mostly the national forests managed by the Forest Service, but also the O&C lands in western Oregon administered by the BLM — has been controversial for decades. Federal forests are to be managed for multiple use and sustained yield — high but sustainable outputs of wood, forage, water, recreation, and fish and wildlife. The use of federal forests, particularly for recreation and for timber harvesting, expanded substantially after World War II, leading to increasing conflict among interests. In the 1960s, the public began to question the practice of timber clearcutting, and litigation in the 1970s successfully challenged the practice. The National Forest Management Act of 1976 (NFMA, P.L. 94-588) was intended, in the words of chief sponsor Senator Hubert Humphrey, “to get the practice of forestry out of the courts and back to the forests.” [122 *Congressional Record*, S17274, Sept. 30, 1976]

Despite this goal, public participatory planning has not ended concerns over the management of federal forests. Wilderness reviews of forestlands have been controversial, delaying the planning process and increasing costs by requiring more information and analysis. Concern over old-growth forests and water quality, litigation to protect northern spotted owl and other animal habitats, and other factors have reduced timber harvests from federal lands to about a third of peak levels of the late 1980s. Some view this decline as achieving a better balance among uses, while others see it as a problem for the economic well-being of the wood products industry and dependent communities. The decline has also resulted in significantly higher management costs, since the agencies have not been able to adapt quickly enough to the smaller timber programs; rising costs are also asserted to result from the public challenges to agency decisions.

Senator Larry Craig, Chairman of the Senate Energy Subcommittee on Forests and Public Land Management, held a series of oversight hearings on federal forest management in the 104th Congress. Draft legislation to address the concerns and problems identified at the hearings was made public in December 1996, and the Committee held a series of workshops of various aspects of the draft; a revised bill was then debated in the 105th Congress. In addition, a provision was included in the FY1999 Interior Appropriations Act (P.L. 105-277) directing the Forest Service to test a community-based approach to forest management with 5-year implementation of the recommendations of the Quincy Library Group (so named because the library in Quincy, CA, was seen as the only neutral site by the various interests) on three national forests in the northern Sierras. Possible changes in federal forest management may again be discussed in the 106th Congress.

CRS Reports:

- 98-917 ENR, *Clearcutting the National Forests: Background and Overview*;
- 97-315 ENR, *Federal Land Management: Administrative Issues*;
- 97-274 A, *Federal Land Management: Appeals and Litigation*; and
- 95-1077 ENR, *Forest Service Timber Sale Practices and Procedures: Analysis of Alternative Systems*.

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Forest Service Fiscal Issues. In recent decades, two fiscal issues have been the focus of substantial congressional attention. Over nearly 2 decades, Members have persistently questioned the Forest Service about “below-cost” timber sales — where the estimated revenues are less than the cost to sell the timber. This concern has been exacerbated by the rising costs (mentioned above) which have resulted in net losses from the Forest Service timber sale program in the past 2 fiscal years.

The second fiscal issue has been the construction and the financing of forest roads. Roads are supported by those who use them for access to the national forests (for timber harvesting, as well as for fire control, recreation, and other uses), but are opposed by others, because of significant environmental damages both during and after construction and because of a desire to preserve pristine areas. Financing, particularly the Forest Service’s complicated system of “purchaser road credits” has also been controversial; the use of road credits was terminated by a provision in the FY1999 Interior Appropriations Act.

More recently, concerns have been raised about Forest Service fiscal management. The General Accounting Office has issued nearly a dozen reports in the past 2 years documenting inadequate fiscal controls, particularly for overhead expenditures and for use of the trust funds and special accounts. A bill was introduced in the House late in the 105th Congress to address these concerns, but was not enacted; however, a provision in the FY1999 Interior Appropriations Act established certain reporting requirements for the FY2000 budget request, and limited FY2000 indirect expenditures from several trust funds and special accounts to 20% of obligations. Thus, further discussion of this issue seems likely in the 106th Congress.

CRS Reports:

- 95-15 ENR, *Below-Cost Timber Sales: Overview*;
- 97-706 ENR, *Forest Roads: Construction and Financing*; and
- 97-14 ENR, *The Forest Service Budget: Trust Funds and Special Accounts*.

CRS Contact:

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Payments from Federal Lands

Various programs have been enacted to compensate state and local governments for the presence of tax-exempt federal lands within their boundaries. All four federal land managing agencies have one or more such programs. To determine the amount to be paid, these programs typically apply a formula based (1) on the amount of federal lands within the jurisdiction and (2) on revenues earned in the area. Some payment programs are permanently appropriated, but most are funded through annual appropriations. States and local governments have argued that the permanently appropriated funds are inadequate. For the annually appropriated funds, they argue that the authorizations are set too low, and that actual appropriations in recent years have been even lower. Opponents of payments to local governments tend to be taxpayer groups. They are rarely vocal, but some argue that the authorizations are a windfall when the payments are higher than the revenues the counties would receive if the land were in private ownership and taxed. However, by far the more serious “opponent” of these programs has been the attempt to reduce federal spending, which forces these payment programs to compete with other programs that draw from the budget allocations to the Interior Appropriations Subcommittees.

The conflict is becoming more intense for several reasons: (1) the payments have declined in terms of purchasing power (total payments in real dollars have declined); (2) payments *per acre* have declined due to an increase in the number of acres eligible for these payments without a commensurate increase in appropriations; and (3) for the Payments in Lieu of Taxes Program (PILT, administered by BLM, providing payments for most lands administered by the four federal land managing agencies), there has been a substantial increase in authorized levels without a commensurate increase in appropriations. As a result, local governments complain that they are receiving as little as 50 to 70 cents of each dollar they are “owed.” The debate in the 105th Congress focused on the appropriations levels for FY1998 (H.R. 2107), where an attempt to add funds to PILT failed on the floor of the House. For FY1999, the PILT appropriation level was raised to \$125 million. Even with the increased funding, the rising payment formula will still result in counties receiving amounts significantly lower than authorized levels, and therefore requests to Members of the 106th Congress for higher appropriations levels can be expected.

CRS Reports:

- 90-192 ENR, *Fish and Wildlife Service: Compensation to Local Governments*,
- 97-14 ENR, *The Forest Service Budget: Trust Funds and Special Accounts*;
- 95-254 ENR, *PILT (Payments in Lieu of Taxes): Somewhat Simplified*.

CRS Contacts:

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Fish and Wildlife: Wild Animal and Plant Issues

Overview

Animal habitats continue to be modified or degraded, leading to increasing concerns over the possible extinction of a growing number of plant and animal species and over the need to maintain biological diversity. These concerns have led to increased conflicts with other values, such as private property rights. Issues can involve individual species protected under the Endangered Species Act (*e.g.*, northern spotted owls, California gnatcatchers, or Pacific salmon) or entire ecosystems (*e.g.*, the greater Yellowstone area or southern Florida). The 106th Congress may address these concerns in the reauthorization of the Endangered Species Act and other bills, or in relevant appropriations bills.

In addition, commercial fisheries issues may generate congressional action in the 106th Congress. The funding authorizations expire during the first session of the 106th Congress for both the principal statute governing federal fisheries management (the Magnuson-Stevens Act) and the major law regulating fishery interactions with marine mammals (the Marine Mammal Protection Act).

Finally, an issue which may generate congressional interest is the rising concern over the introduction of non-native species (*e.g.*, Asian long-horned beetles, brown tree snakes, zebra mussels, Formosan termites, hydrilla, and walking catfish, to name a few), and the attendant economic cost of the proliferation of these species.

Endangered Species Act

The Endangered Species Act of 1973 (ESA) has been among the most controversial of environmental laws. The controversy results, in part, because implementation is seen by some as conflicting with private property rights and resource use; others view it as the major effective protection for flora and fauna from permanent damage. Controversy also undoubtedly stems from ESA's strict substantive standards. Thus, the Act often plays a role in disputes in which all sides agree that the given species is not the ultimate focus of the debate. For example, the debate over the Edwards Aquifer in Texas focuses principally on how to balance the competing needs of groundwater users (demand is increasing but supply is not) with the needs of the listed species (two fish species, two salamanders, and one plant) that coincide with the needs of some users and conflict with others; thus certain groups support the ESA to further their interests.

The authorization for spending under ESA expired on October 1, 1992. The prohibitions and requirements of the Act remain in force, however, even in the absence of an authorization. Moreover, funds have continued to be appropriated. In the 105th Congress, appropriations for ESA were less controversial than in previous Congresses.

The conventional wisdom seems to be that no comprehensive reauthorization of ESA is likely to be signed into law during the 106th Congress. Some foresee a greater

chance of enacting a less comprehensive bill that addresses points on which many parties (including litigants) can agree. Such a bill might include legislating some of the recent administrative interpretations affecting habitat conservation plans, small or residential property owners, *etc.* Whether those willing to accept compromise on some points outnumber those who wish to enact only a far-reaching bill remains to be seen. Most ESA bills have been limited in their scope. One exception was H.R. 2351 in the 105th Congress, which was strongly endorsed by some environmental groups, and is expected to be reintroduced in the 106th Congress. Another exception was S.1180 (also in the 105th Congress), introduced by former Sen. Kempthorne and reported by the Committee on Environment and Public Works (S.Rpt. 105-128). The bill's sponsors had hoped to bring the bill to the Senate floor but did not succeed. An attempt to add the bill to the FY1999 Interior Appropriations bill was also unsuccessful.

CRS Reports:

- 93-485 ENR, *The Edwards Aquifer and Vulnerable Species.*;
- IB10009, *Endangered Species Act: Continuing Controversy*; and
- 95-200 A, *The Property Rights Issue.*

CRS Contacts:

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Pacific Salmon Management

Management of salmon and anadromous trout along the Pacific Coast will likely remain a controversial issue during the 106th Congress for several reasons. Although 15 distinct population segments have already been listed as endangered or threatened under the Endangered Species Act, federal decisions on whether to list an additional 13 population segments are scheduled for March 1999. In addition, the U.S. Army Corps of Engineers is scheduled to report by May 1999 on which option (including possible breaching of 4 Lower Snake River dams) it will recommend for managing the Columbia River hydropower system to benefit fish. Also, little progress has been made on renegotiating the Pacific Salmon Treaty with Canada, with cooperative management of shared coastal migrating salmon stocks remaining highly controversial. In the FY2000 budget request, the Clinton Administration has proposed a new \$100 million Pacific Coastal Salmon Recovery Fund for assisting state, local, and tribal habitat restoration projects. For Congress, much of the attention to this issue will likely come during the debates over appropriations for NMFS and for Corps of Engineers and Bureau of Reclamation water projects.

CRS Reports:

- 98-666 ENR, *Pacific Salmon and Anadromous Trout: Management Under the Endangered Species Act*; and
- IB10010, *Fishery, Aquaculture, and Marine Mammal Legislation in the 106th Congress.*

CRS Contact:

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Magnuson Act Reauthorization

At the close of the 104th Congress, the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) was amended and reauthorized (P.L. 104-297). However, the lack of time to negotiate a conference agreement between the differing House and Senate versions (the Senate version was accepted by the House at the last moment) left some Members of Congress dissatisfied with a number of the enacted provisions. Little action on these issues occurred in the 105th Congress. During any debate to reauthorize the MSFCMA, the 106th Congress may revisit several issues, such as bycatch, individual fishing quotas, vessel and permit buy-back authorization, and assistance for small fishing communities. The economic distress that fishermen and coastal fishing communities are experiencing in implementing the conservation measures contained in the 1996 MSFCMA amendments suggest that the reauthorization debate in the 106th Congress may focus attention on creating a “safety net” to sustain the fishing industry while conservation measures restore fish stocks. In preparing for reauthorization, Congress is likely to review implementation of the 1996 MSFCMA amendments, especially interim final regulations for identifying and protecting essential fish habitat (62 *Federal Register* 66531-66559, Dec. 19, 1997).

CRS Reports:

- 97-441 ENR, *Commercial Fisheries: Financial Aid and Capacity Reduction*;
- IB10010, *Fishery, Aquaculture, and Marine Mammal Legislation in the 106th Congress*;
- 95-849 ENR, *Individual Transferable Quotas in Fishery Management*; and
- IB95036 (archived), *Magnuson Fishery Conservation and Management Act Reauthorization*.

CRS Contact:

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Marine Mammal Protection Act Reauthorization

The 103rd Congress reauthorized the Marine Mammal Protection Act (MMPA) in P.L. 103-238, while the 105th Congress modified the protection afforded dolphins in the eastern tropical Pacific, where these animals associate with yellowfin tuna, in P.L. 105-42. Any reauthorization debate on the MMPA in the 106th Congress may focus on issues such as the incidental taking of marine mammals during commercial fishing, appropriate care for marine mammals held for public display, use of marine mammals by Native Americans, and management of robust marine mammal populations.

CRS Reports:

- IB96011 (archived), *Dolphin Protection and Tuna Seining*;
- IB10010, *Fishery, Aquaculture, and Marine Mammal Legislation in the 106th Congress*; and
- 94-751 ENR, *Marine Mammal Protection Act Amendments of 1994*.

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Whaling

The 106th Congress may well be drawn into a number of domestic and international whaling issues, because of changing whaling patterns; Norway, for example, has increased its proposed 1999 commercial whaling harvest quota to 753 whales. In 1996, under the Pelly amendment to the Fisherman's Protective Act, the Secretary of Commerce certified to the President that Canada had acted in a way that diminished the effectiveness of an international fishery agreement (by allowing Inuit natives to kill two bowhead whales), but economic sanctions against Canada, as authorized by the Act, were not imposed. The United States faces domestic concerns as the Makah Tribe in Washington State prepares to kill a small number of eastern Pacific gray whales under the International Whaling Commission's (IWC) aboriginal whaling guidelines. Although the IWC approved the Makah petition at its annual meeting in October 1997, domestic critics continue to contest the legality of the Makah hunt and protests have occurred.

CRS Reports:

- IB10010, *Fishery, Aquaculture, and Marine Mammal Legislation in the 106th Congress*;
- 97-55 F, *Norwegian Commercial Whaling: Issues for Congress*; and
- 90-283 ENR, *Whale Conservation*.

CRS Contact:

Gene Buck at 7-7262.

Wild Animal Welfare

With increasing urbanization and changing social values, some traditional sporting activities (*e.g.*, hunting and fishing) have come under attack. These activities traditionally have been regulated by states, rather than the federal government, and where relevant federal law exists, it represents a patchwork of exceptions to this general rule. Nonetheless, Congress has, at various times, been asked to consider: (1) restricting or eliminating hunting, fishing, and trapping on national wildlife refuges and other federal lands; (2) restricting interstate commerce in leghold traps or in animal products resulting from the use of the traps; (3) restricting leghold traps to meet European Community requirements, and thus maintain market access for U.S. furs; (4) establishing the right of hunters and fishermen to a peaceful, unimpeded hunting or fishing experience within the limits of the law; (5) protecting livestock on both public and private lands where predators (especially coyotes) are numerous; (6) protecting certain species (especially bears) whose body parts are in heavy demand for traditional medicines in Asia; (7) controlling populations of waterfowl (especially geese) that foul suburban areas and contaminate pond water; (8) controlling the populations of deer that eat suburban gardens and may host Lyme disease; and (9) other issues.

States have usually opposed federal action on these and similar issues, to protect their primacy in these matters. Animal protection advocates have taken strong stands, as have hunting, fishing, and trapping interests, suburbanites, public health advocates, ranchers, and other groups. Traditional environmental groups tend to become

involved only when the stability of species or populations is at stake, rather than the welfare of individual organisms. For many of these issues, bills have been introduced several times in the last decade or so, but have rarely, if ever, received floor consideration in either chamber. As in the past, constituent interest is likely to continue.

CRS Reports:

- 92-597 ENR, *National Wildlife Refuges: Places to Hunt?*; and
- 96-915 ENR, *Predator Control Issues: USDA's Animal Damage Control Program*.

CRS Contacts:

M. Lynne Corn at 7-7267 (for hunting and refuges); Jean Rawson at 7-7283 (for animal damage control); Eugene H. Buck at 7-7262 (for fisheries and marine mammals); Lenore Sek at 7-7768 (for European fur trade issues); Betsy A. Cody at 7-7229 (for livestock grazing on public lands and wild horses and burros); or Pamela Baldwin at 7-8597 and Henry Cohen at 7-7892 (for legal issues).

Aquaculture

Aquaculture is the production of fish, shellfish, or other animals or plants in controlled or selected aquatic environments; mariculture is often used to refer to marine aquaculture. Issues include: possible federal assistance to stimulate private aquaculture development; federal coordination and/or regulation of aquaculture; and pertinent constraints required to protect native species and habitats. Some of these questions were debated during the consideration of legislation to reauthorize the research and extension programs of the U.S. Department of Agriculture, one of the lead federal agencies on aquaculture, during the 105th Congress. The U.S. Departments of Commerce and of the Interior also share lead responsibility. Subsequently, the 105th Congress passed a simple reauthorization of the National Aquaculture Act, but otherwise did not address aquaculture issues.

CRS Reports:

- 97-436 ENR, *Aquaculture and the Federal Role*; and
- IB10010, *Fishery, Aquaculture, and Marine Mammal Legislation in the 106th Congress*.

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Control of Non-Native Species

An abundant species where it does not belong can have severe economic impacts potentially far greater than those of species protected under the Endangered Species Act. A 1993 Office of Technology Assessment report (OTA-F-565) estimated that just 79 of the over 4500 non-native plants and animals in the United States caused over \$97 billion in damage between 1906 to 1991. A more recent estimate of \$122 billion damage *annually* from non-native species was presented at the 1999 meeting of the American Association for the Advancement of Science. (See

http://www.news.cornell.edu/releases/Jan99/species_costs.html). Some introductions have been intentional and others have not. The economic damage caused by these species has affected agriculture, power supplies, water supplies, human health, fisheries, recreation, and other areas of the economy. Damage to natural ecosystems has been equally severe. Congress has addressed some of these issues in a patchwork of laws that has arisen over several decades. In general, these laws tend to represent *ad hoc* solutions to the problems presented by individual species. Because of the ease of transportation and increasing global commerce, threats posed by non-native species are likely to worsen.

The threat of a trade war with China over the risk of importing Asian long-horned beetles (which threaten flowering trees in this country — maple, magnolia, ash, walnut, apple, orange, *etc.*) has done a great deal to focus attention on the broad threat posed by non-native species. Committees with a range of jurisdictions may be expected to be active on this issue or on the broader question of preventing and controlling the introduction of non-native species. On February 3, 1999, the President issued Executive Order 13112 calling on federal agencies to expand efforts aimed against non-native species. The 106th Congress may hold hearings on the Executive Order and its consequences.

CRS Reports:

- 90-116 ENR, *The European Zebra Mussel, Dreissena polymorpha*; and
- 97-50 ENR, *Non-Indigenous Species: Government Response to the Brown Tree Snake and Issues for Congress*.

CRS Contacts:

M. Lynne Corn at 7-7267 (for terrestrial species); Eugene H. Buck at 7-7262 (for aquatic species); Jean Rawson at 7-7283 (for agricultural impacts).

Water Resources Issues

Overview

Water resource issues are becoming more important as demand on existing supplies continues to grow. Increasing human populations in many areas — combined with increasing demand for water for recreation, aesthetics, and wildlife and fish habitat — have resulted in conflicts throughout the country, especially in the arid West. Major water resource development projects (large dams and diversions) have traditionally met much of the consumptive demand for water, especially from the largest user, irrigated agriculture, as well as demands for flood protection. However, the financial and environmental costs of such projects have limited development since the 1970s. Yet, the demand continues for traditional or new water supply projects -- navigational improvements, flood control projects, and beach and shoreline protection efforts. These issues have been present in debates on individual projects, as well as in debates over the proposed 1998 Water Resources Development Act (H.R. 3866 and S. 2131, 105th Congress) and the enacted FY1999 appropriations for the Bureau of Reclamation and the Corps of Engineers, and may well be considered again during the 106th Congress.

Several water issues have emerged in recent years. In the West, naturally scarce water supplies and increasing urban populations have spawned new debates over water allocation — particularly over water for threatened or endangered species — and have increased federal-state tensions, since states have generally had primacy in intrastate water allocation. Water marketing and water trading are increasingly becoming accepted, but some federal and state laws limit this option. Critics contend that some agricultural producers have been collecting two subsidies — one for water delivered by federal facilities and a second for commodity price supports.

Nationwide, threatened and endangered species and general concern over the health of the nation's rivers and riparian areas have driven increased attention to river and watershed protection and restoration efforts. The federal government is involved in several large-scale restoration initiatives, ranging from the Florida Everglades to the San Francisco Bay-San Joaquin/Sacramento Delta.

Wetlands protection continues to be debated between protection advocates, who articulate the many values of wetlands, and property rights advocates, who question limits on using or modifying privately owned property without compensation. Some changes have been enacted to the flood insurance program and floodplain management in general, and many others have been considered, largely in response to severe regional flooding in the past several years, and to shorefront erosion, wind damage, and floods caused by hurricanes and coastal storms. Finally, congressional concern over estuary degradation is growing, due to such incidents as the *Pfiesteria* outbreak in North Carolina rivers and drainages to the Chesapeake Bay and the expanding "dead zones" off the mouth of the Mississippi and other river systems. Other issues that may surface in the 106th Congress include treatment of federal reserved water rights in relation to federal lands, transfer of water across federal lands, Indian water rights settlements, removal of some dams, and licensing of nonfederal hydropower facilities.

Water Resource Projects

Most of the large dams and water diversion structures in the United States were built by, or with the assistance of, the Bureau of Reclamation (Bureau) or the U.S. Army Corps of Engineers (Corps). Traditionally, Bureau projects were designed principally to provide reliable water supplies for irrigation and some municipal and industrial uses; Corps projects were designed principally for flood control, navigation, and power generation. The Bureau currently manages 343 storage reservoirs and 253 diversion dams in 17 western states, providing water to approximately 9 million acres of farmland. The Corps operates hundreds of flood control and navigation projects throughout the country.

Both the Corps and the Bureau have experienced budget declines over the past 20 years, particularly in amounts appropriated for construction. The Corps received \$3.86 billion in appropriations for FY1999, including \$1.43 billion for construction (nearly double the Administration's request). The Bureau received \$780.5 million (net current authority) for FY1999. Additionally, both agencies have been criticized by some appropriations and authorizing committees for shifting their focus from water resources development to water resources management and environmental mitigation. This represents a reversal, of sorts, of agency criticisms during the 1980s and early 1990s, and reflects the different and changing priorities inherent in executive and legislative programs and budgets. At the same time, many non-water user groups outside Congress still view the agencies as largely water resource development agencies.

Corps of Engineers. Like the Bureau of Reclamation, the Corps has experienced a shift in agency priorities over the past decade. After nearly two decades of stalled construction authorizations, Congress in 1986 passed major water project reform legislation known as the Water Resources Development Act (P.L. 99-662). This Act fundamentally changed many of the policies governing Corps operations, especially cost-share formulas, which in turn provided broader distribution of funds and increased planning for additional navigational/harbor projects, as well as more cooperative federal-local initiatives for flood control or flood prevention.

Congress has since enacted further omnibus water project authorizations in 1988, 1990, 1992, and 1996. This traditionally biennial Water Resources Development Act (WRDA) has provided for congressional oversight of Corps programs and for adjusting financing and other aspects of water project planning and construction. The 1996 WRDA (P.L. 104-303) approved \$5.4 billion for 44 future Corps projects and studies, and changed federal-nonfederal cost sharing ratios for both flood control and dredge material disposal. The 105th Congress considered but did not pass a 1998 WRDA; one of the contributing factors was disagreement over how to address the flood control issues on the American River in California. If the 106th Congress considers a WRDA, it is likely to address the need for early or separate action on several pending policy matters — notably whether to authorize any of the Administration's "Challenge 21" flood policy reforms, and how to replace funding for the Harbor Maintenance Trust Fund, which was struck down by the U.S. Supreme Court as an unconstitutional tax on exports (118 Sup.Ct. 1290 (1998)).

Construction funding was a major issue for the Corps in the 105th Congress, and may be at issue again during the 106th Congress. For FY1999, the Administration requested only half of what had been appropriated for construction in FY1998 — a request that was described by some Members as “irresponsible,” and which was nearly doubled by the House and Senate Appropriations Committees, thus restoring funding for ongoing projects and earlier congressional priorities. Construction funds for the Corps are about 37% of the \$3.86 billion appropriated for FY1999 (P.L. 105-245); in FY1998, construction was 40% of the \$4.0 billion in Corps appropriations.

CRS Reports:

- 98-985 ENR, *Water Resource Issues in the 106th Congress*; and
- 98-207 ENR, *Appropriations for FY1999: Energy and Water Development*.

CRS Contacts:

Steve Hughes at 7-7268 (for Corps operations); or Pamela Baldwin at 7-8597 (for legal issues).

Bureau of Reclamation. Since the early 1900s the Bureau has built and operated large, multipurpose water supply projects in 17 western states. The first projects were principally for irrigation, with additional purposes added over time. Construction authorizations slowed during the 1970s and 1980s for several reasons, including the increasing environmental and financial costs of building large dams and diversion projects, as well as changing public attitudes toward such development. In 1987, the Bureau announced a new mission: instead of focusing largely on construction, it would focus on the safety of existing projects and on environmentally sensitive water resources management. In the ensuing decade, increased population, prolonged drought, fiscal constraints, and increasing water demands for fish and wildlife, recreation, and scenic enjoyment resulted in increased pressure to alter operation of many Bureau projects. Such changes have been controversial, however, as water rights, contractual obligations, and the potential economic effects of altering project operations complicate any change in water allocation or project operations.

A variety of specific Bureau-related water project and management issues were addressed during the second session of the 105th Congress, with varying degrees of action. In particular, legislation to authorize several rural water supply projects and to transfer project title to beneficiaries were considered, but few were enacted. Many of these issues may be considered during the 106th Congress, including:

- transferring ownership of specific Bureau facilities to non-federal organizations or project users (title transfer);
- authorization of various rural water supply and water recycling projects;
- re-operation of the Folsom Dam in California (or other American River flood control measures including possible construction of the Auburn dam or transfer of the construction site);
- construction of the Animas-La Plata project in southern Colorado;
- operation and repayment of the Central Arizona Project;
- completion or redevelopment of the Garrison Diversion Unit in North Dakota;
- management of the lower Colorado River;

- oversight of the 1992 Central Valley [California] Project Improvement Act and the San Francisco Bay-San Joaquin/Sacramento Delta process (known as Bay-Delta or CAL-FED);
- restoration of the Salton Sea;
- oversight of Administration activities related to project operations, including review of regulations to implement the Reclamation Reform Act of 1982;
- operations and management of Bureau and Corps facilities in the Columbia and Snake River Basins; and
- Indian water rights.

Broader issues that may receive attention during the 106th Congress include definition of the Bureau's mission and its future role in western water supply and water resource management generally. As public demands and concerns have changed, so has legislation affecting the Bureau. Further, some in Congress have questioned the Bureau's 1987 shift in focus from water resources development to water resources management. Some have also questioned the increasing number of proposals to fund new rural water supply projects with high federal cost-share ratios and of grants for reclaiming and reusing water — especially while overall funding for “traditional” reclamation projects is declining. Critical questions that Congress may address include: What should be the future federal role in water resources development and management? Should (or to what extent should) the federal government develop or augment new supply systems designed primarily to serve communities and municipalities, or should this development be mostly (or entirely) a regional or local responsibility? Who should pay, and how much? Should the Bureau be involved in environmental mitigation or is this best handled through new institutional arrangements or other existing agencies? Should existing projects be revamped or re-operated to accommodate the changing demands, and if so, do new policies and institutions (federal-state roles) need to be addressed, and again, who should pay?

CRS Reports:

- 98-985 ENR, *Water Resource Issues in the 106th Congress*; and
- 98-207 ENR, *Appropriations for FY1999: Energy and Water Development*.

CRS Contacts:

Betsy Cody at 7-7229 (for Bureau operations); Roger Walke at 7-8641 and Elizabeth Bazan at 7-6190 (for Indian water rights); or Pamela Baldwin at 7-8597 (for non-Indian water rights and other legal issues).

River Protection and Management

Two federal programs currently designate river segments for special protection or enhancement: 1) the National Wild & Scenic Rivers System, and 2) the American Heritage Rivers Program.

National Wild & Scenic Rivers System. This system was established by the National Wild and Scenic Rivers Act of 1968. The Act's primary purpose was to preserve free-flowing river segments through federal statutory protection. Since 1968, Congress has periodically added new river segments to the system. Today, the System includes 155 rivers in 37 states, with designated units totaling 10,896 miles

bordered by land in a mix of public and private ownership. Congress typically designates wild and scenic rivers, although states may petition for the Secretary of the Interior to designate state-protected rivers. (State agencies administer these rivers.) The last major addition to the System came in 1992, with the designation of 14 river segments in Michigan. Congress considered several additions to the System during the 105th Congress, including the Hanford Reach of the Columbia River; however, no new river segments were added in 1997, and only one (by Secretarial designation) was added in 1998. Issues likely to be debated during discussion of wild and scenic river proposals in the 106th Congress include limits on use of private property within river corridors, special land use exemptions, water rights, and development of river management plans.

CRS Reports:

- 98-991 ENR, *Federal Land Management Agencies: Background on Land and Resources Management*.

CRS Contact:

Sandra L. Johnson at 7-7214; or Pamela Baldwin at 7-8597 (for legal issues).

American Heritage Rivers Program. This administrative program was proposed by the Clinton Administration in 1997 to help communities protect and restore rivers and river fronts. In July 1998, the President designated 14 American Heritage Rivers (from among the 126 that had been nominated by localities), making them eligible for targeted federal assistance and increased coordination of federal programs. The 105th Congress held several oversight hearings on the 1997 proposal, and legislation was introduced to abolish the program as well as to restrict the use of appropriated funds. One of the chief complaints from Members has been that Congress had never authorized this program. Additionally, although the program is voluntary, many questioned the potential for an expanded federal role which could restrict land use, thereby raising concerns over private property rights. The Administration has not yet stated whether it will call for additional river nominations during 1999 or 2000, but additional oversight activity may occur during the 106th Congress as implementation begins on the designated rivers.

CRS Reports:

- 98-11 ENR, *American Heritage Rivers*.

CRS Contacts:

Jeffrey Zinn at 7-7257; Betsy A. Cody at 7-7229; or Pamela Baldwin at 7-8597 (for legal issues).

National Flood Insurance Program

The National Flood Insurance Program (NFIP) was created in 1968 (Title XIII of P.L. 90-448) to limit the growth of federal flood control and disaster relief expenditures through reasonably priced flood insurance that includes incentives to limit construction and development in known flood-prone areas. NFIP makes federally guaranteed flood insurance available in communities that adopt and enforce minimum floodplain management requirements, including: zoning ordinances, subdivision limits, flood-specific building codes, and other land use controls designed

to reduce future flood losses. After more than 25 years of existence and considerable adjustment by Congress, many had perceived the program as flawed, primarily because low participation rates left many at-risk properties uninsured and the existence of federal insurance was perceived to stimulate residential development in flood-prone coastal areas.

Extensive midwestern floods during the summer of 1993 provided a final impetus to amend the NFIP. Federal flood insurance program reform was included as Title V in the Community Development and Regulatory Improvement Act of 1994 (P.L. 103-325). The reforms were intended to strengthen the program by increasing lender compliance with and enforcement of the mandatory flood insurance requirements. Changes included comprehensive purchase and maintenance of mandatory coverage, addition of mitigation coverage to flood insurance policies, and creation of a National Flood Mitigation Fund. The law also required the Federal Emergency Management Agency (FEMA) to study and map erosion hazards; in 1998, FEMA completed promulgating the necessary implementing regulations. High insurance payouts in recent years have caused program coverage rates to increase, and have triggered Treasury borrowing authority to assure that NFIP could honor all claims when the premium fund is depleted. Flooding on the West Coast during the winter storms of 1996-1997 and in the upper Midwest in the spring of 1997, as well as the substantial *El Nino*-driven damage in 1998, have resulted in insurance program losses that have caused congressional concerns.

The FEMA director has announced administrative program reforms designed to cut NFIP losses in half over the next 3 years. These reforms were at least partly in response to congressional concerns about repetitive loss (multiple payments for damages to the same site) and criticism that the stricter building standards required for community participation in the NFIP have shown people how to build in flood-prone areas where allegedly no residential construction should be permitted. The FEMA director has called for increased rates for high-risk properties, speedier buy-outs of repetitive loss properties, and limits on continued insurance availability for very high risk and repetitive loss properties. These new administrative reforms, particularly the substantial insurance premium rate increases, will likely stimulate considerable constituent complaints to Congress, and may lead to oversight of the program in the 106th Congress.

CRS Reports:

- IB93077 (archived), *National Flood Insurance Program Issues*.

CRS Contact:

David Whiteman at 7-7786.

Wetlands

The 105th Congress did not act on any wetland issues, leaving many of them for the 106th Congress to consider. The issues that this Congress might raise include:

- implementation of the Clinton Administration's Clean Water Initiative, which calls for achieving a net gain of 100,000 acres of wetlands annually by 2005;
- oversight of implementation of the wetland provisions in the 1996 farm bill;

- oversight of changes in regulations for the §404 wetland permitting program;
- federal wetland program funding;
- an assessment of the effectiveness of federal wetland protection efforts; and
- innovative approaches to protect wetlands while increasing flexibility and certainty for private landowners (such as mitigation banking).

The 105th Congress placed a lower priority on addressing wetland topics than earlier Congresses: little action was taken, other than reauthorizing two uncontroversial wetland programs. Oversight hearings seem likely in the 106th Congress. Possible topics include: changing the §404 program; assessing the effectiveness of innovative wetland protection techniques, such as mitigation banking; merging the two federal wetlands inventory efforts conducted by the Fish and Wildlife Service and Natural Resources Conservation Service; and insuring that private property rights are protected.

CRS Reports:

- IB97014, *Wetlands Issues in the 105th Congress*; and
- 97-849 ENR, *Wetland Mitigation Banking: Status and Prospects*.

CRS Contacts:

Jeffrey Zinn at 7-7257; Claudia Copeland at 7-7227; or Rob Meltz at 7-7891 (for legal issues).

Estuarine Areas

Estuaries occur along the coast where fresh water draining from rivers meets and mixes with ocean waters. The resulting water bodies, which include Chesapeake Bay and San Francisco Bay as major examples, exhibit characteristics that differ from both rivers and the ocean. Scientists consider estuaries to be among the most productive ecosystems on earth. But, they are also the sites of many large cities, concentrated economic activity, and development, and therefore are among the most threatened ecosystems. The National Oceanic and Atmospheric Administration and the Environmental Protection Agency each administer a program to protect and manage estuarine resources: respectively, the Estuarine Research Reserve System, created in the Coastal Zone Management Act (CZMA); and the National Estuary Program, created in the Clean Water Act. The CZMA authorization of appropriations expires during the first session of the 106th Congress. Neither CZMA nor the Reserve System are generally considered controversial. In contrast, the Clean Water Act expired at the end of FY1991. Although the National Estuary Program is not seen as contentious, consideration of the controversial Clean Water Act reauthorizing legislation is less certain during the 106th Congress.

Several specific issues have attracted more attention to protecting estuaries recently. One has been the problems caused by, and the need to better understand, *Pfiesteria piscicida* (a recently identified species of a single-celled organism) and related species, whose blooms can release toxins that harm fish and possibly human health under certain conditions. These blooms and their effects have also raised interest in estuary degradation more generally. A second issue that has attracted attention is the appearance of hypoxia, or low-oxygen "dead zones," most notably off the mouth of the Mississippi River. The 105th Congress responded to these issues by

enacting the Harmful Algal Blooms and Hypoxia Research and Control Act of 1998 as title VI of the Coast Guard Authorization Act of 1998 (P.L. 105-383). Funding and oversight of current programs may be considered in the 106th Congress.

CRS Reports:

- IB97001, *Clean Water Act Reauthorization in the 105th Congress*;
- 98-869 ENR, *Marine Dead Zones: Understanding the Problem*;
- 97-644 ENR, *National Estuary Program: A Collaborative Approach to Protecting Coastal Water Quality*;
- 98-1002 ENR, *Ocean and Coastal Resource Issues*; and
- 97-1047 ENR, *Pfiesteria and Related Harmful Blooms: Natural Resource and Human Health Concerns*.

CRS Contacts:

David Bearden at 7-2390 (for National Estuary Program); Gene Buck at 7-7262 (for *Pfiesteria* and hypoxia); and Jeff Zinn at 7-7257 (for National Estuarine Research Reserve).

Ocean Issues

The United States has important interests in ocean and coastal resources, involving such issues as pollution, food supply, energy development and mineral extraction, tourism, and transportation. The United States and its insular areas (*e.g.*, Puerto Rico, Virgin Islands, Guam, and American Samoa) have more than 95,000 miles of coastline, and the offshore U.S. Exclusive Economic Zone encompasses almost 3.4 million square miles (nearly equal to the land area of the United States). One major concern is the effect of increasing population, development, and other human activities on ocean and coastal environments, and interests are seeking support to better identify, understand, and prevent unacceptable degradation. Another concern is the need for more knowledge of oceanic processes and interactions with the atmosphere and with terrestrial ecosystems to improve understanding of weather and climate, including possible rates and patterns of global warming and the implications for coastal erosion and property destruction.

Similar interests and concerns are raised around the world, which prompted the United Nations to declare 1998 the “International Year of the Ocean.” In the 105th Congress, the Senate passed a bill (S.1213) to establish a National Ocean Council and a Commission on Ocean Policy; the House also passed a bill (H.R. 3445), The Oceans Act of 1998, but differences were not resolved prior to adjournment.

CRS Reports:

- 98-1002 ENR, *Oceans and Coastal Resources Issues* (this report provides an introduction to the topics below, as well as to many others);
- 98-640 ENR, *Oceans Act in the 105th Congress: Bills Relating to a U.S. Oceans Policy*.

CRS Contacts:

Rick Greenwood at 7-7236 (for general background); and John Justus at 7-7078 (for ocean science issues)

Other Resource Issues

There are additional natural resource issues that are related to the domestic, federal programs described above. Private property rights and regional growth relate to non-federal lands, while international treaties and strategic materials relate to the global situation.

Private Property Rights

Interest in statutory protection of private property rights has soared in the past decade, stirred by concerns that federal (as well as state and local) regulatory actions are reducing private land values. The compensation remedy provided by the Fifth Amendment's "Takings Clause" is asserted to be too difficult to obtain, despite recent U.S. Supreme Court decisions affording greater property owner protection.

Since 1990, Congress has seen numerous free-standing property rights bills of two principal types: (1) "assessment" bills that would require federal agencies to assess the "takings" implications of their proposed actions; and (2) "compensation" bills that would set a statutory threshold for compensation of landowners whose property value suffers due to federal action. None has been enacted, although the House passed a compensation-type bill as part of the Republican Contract with America (H.R. 9) early in the 104th Congress. In the 105th Congress, interest shifted to "process" bills to make the judicial process for obtaining compensation easier for the property owner, without changing the standards for when compensation should be paid, but again none was enacted.

The debate has often emphasized the perceived private landowner impacts of the endangered species protection and federal wetlands regulation. In part to deter passage of property rights legislation, the Clinton Administration has sought to accommodate landowner concerns through greater administrative flexibility in implementing the wetlands and endangered species programs. Those efforts seem likely to continue, and might be codified. On the other hand, prospects for passage of sweeping compensation legislation seem to have dimmed, although targeted, program-specific measures to assist landowners may be considered.

CRS Reports:

- 97-877 A, *"Property Rights" Bills Take a Process Approach: H.R. 992 and H.R. 1534*; and
- 95-200 A, *The Property Rights Issue*.

CRS Contacts:

Rob Meltz at 7-7891 (for legal issues); Jeff Zinn at 7-7257 (for wetland policy issues); or Lynne Corn at 7-7267 (for endangered species policy issues).

Regional Growth

On January 11 and 12, 1999, the Clinton Administration announced major initiatives that address traditional resource protection issues, and sprawl and growth

management. These initiatives were included in the FY2000 budget proposal, released February 1. Many proposals would enlarge existing activities or increase funding for smaller programs, and some are new initiatives.

The “Livability Agenda”, announced by Vice President Gore, would:

- provide federal tax credits for state or local bonds over 5 years to buy park land, preserve farmland and wetlands, and clean up abandoned industrial sites (\$700 million over 5 years);
- increase the portion of federal transportation grants for projects other than road building (\$7.75 billion);
- provide matching funds to assist in regional planning and community land use planning, to encourage community participation in siting schools, and to share regional crime data (\$150 million).

The Lands Legacy Initiative, announced by President Clinton, would:

- increase federal land acquisition funding (\$413 million) and designate 5 million acres of wilderness at 17 specified national parks and monuments;
- provide grants to states and localities to acquire land and plan for open space (\$200 million);
- expand funding for other resource protection efforts (\$220 million);
- fund “smart growth” partnerships (\$14 million); and
- expand funding for ocean and coastal protection (\$193.3 million)

These initiatives address a number of rural, suburban, and urban issues in a package with broad appeal for resource protection advocates, but they have aroused opposition from those who believe these initiatives would increase the intrusion of the federal government into traditional local prerogatives and private property rights. Some have commented that these initiatives have a better chance of being enacted as a package, while others who support primarily one portion of the package worry that combining these elements puts every element at some risk when seeking congressional action. Another important consideration in determining the legislative success of these proposals will be how they compete with other proposals that would draw on the anticipated budget surplus.

CRS Reports:

- IB10015, *Conserving Land Resources: The Clinton Administration Initiatives and Legislative Action*; and
- RS20011, *Managing Regional Growth: Is There a Role for Congress?*

CRS Contacts:

Jeffrey Zinn at 7-7257.

International Issues

There are a number of natural resources and environmental issues that are the subjects of multilateral treaties, and are the focus of ongoing international meetings and negotiations, as well as issues in appropriations bills. These ongoing issues include: endangered species, biological diversity, stratospheric ozone depletion, and several others.

While the President negotiates and completes ratification of treaties for the United States, under the Constitution a treaty is subject to the advice and consent of the Senate for ratification. Senate approval requires a two-thirds majority of the Senators present. Once the President sends a treaty to the Senate, it remains before the Senate for action from Congress to Congress. Among the treaties pending before the Senate are two environmental treaties (on desertification and on biodiversity), while a third (on global climate change) has been signed by the President but has not been sent to the Senate. The treaty on biodiversity is thought to be unlikely to receive Senate consideration in the 106th Congress. (See CRS Report 95-598 ENR, *Biological Diversity: Issues Related to the Convention on Biodiversity*.) The Congress may hold hearings or take up the other two — the Kyoto Protocol to the United Nations Framework Convention on Climate Change; and the Convention to Combat Desertification.

Global Climate Change. Congress has taken an active and continuing interest over the past several years, reflected in legislation and hearings, in implications for the United States of possible global climate change resulting from increased levels in the atmosphere of several “greenhouse gases,” such as carbon dioxide emitted from burning of fossil fuels and wood. Recent congressional attention has focused on the international negotiations addressing the concerns that human activities which increase the concentrations of greenhouse gases, may make the Earth’s climate significantly warmer, with corresponding rises in sea levels, changes in agricultural production, effects on human health, and other consequences.

In 1992, the nations of the world agreed upon the United Nations Framework Convention on Climate Change (UNFCCC), which the United States was among the first to sign and ratify. In 1997, the parties to this convention further agreed to the Kyoto Protocol to establish binding reductions in greenhouse gases for the developed countries. (It excluded developing countries until the wealthier industrialized nations had taken the first steps.) In 1998, the parties met again in Buenos Aires, Argentina, to flesh out the specifics of this Protocol, and decided on work plans for each of the major issues, such as the structure for emissions trading, funding for developing countries under the Clean Development Mechanism (CDM), and compliance and enforcement. These work plans are to be completed by 2000. In November 1998, the United States signed the Protocol, but President Clinton has stated that the Administration will not submit the Protocol to the Senate for advice and consent until developing countries are also brought under binding requirements to limit their emissions. In 1997, the Senate passed a resolution, S.Res. 98, stating that the United States should not agree to a protocol that does not include requirements for the developing countries.

Congressional interest has focused on issues including those related to the extent and nature of global warming threats and related research needs, whether and under what conditions the United States should ratify and become a party to the Kyoto Protocol, and implications for the U.S. economy of various means of complying with the emissions reductions in the Protocol.

CRS Reports:

- IB89005, *Global Climate Change*;

- 98-2, *Summary of Kyoto Protocol*; and
- CRS Electronic Briefing Book: *Global Climate Change* (access directly on CRS Home Page or at <http://thomas.loc.gov/brbk/html/ebgcctop.html>)

CRS Contacts:

Susan Fletcher at 7-7231 (for the Kyoto Protocol); John Justus at 7-7078 (for science issues); and Larry Parker at 7-7238 (for emissions trading).

Desertification Treaty. One treaty before the Senate addresses desertification — land degradation in arid, semi-arid, and dry sub-humid land areas. The problem is estimated to threaten one-quarter of the world's land and about a billion people. Formally called the Convention to Combat Desertification, the Treaty emphasizes local programs supported by international partnerships, and coordination and cooperation among Parties. It outlines different categories of obligations. Affected developing countries, for example, are to develop and implement action programs to combat desertification and drought. Developed country parties are to support these efforts, for example, by promoting the mobilization of funds.

Adopted on June 17, 1994, the Desertification Treaty entered into force on December 26, 1996, 90 days after ratification by 50 countries. The United States signed the Treaty on October 14, 1994, and on August 2, 1996, President Clinton sent it to the Senate for advice and consent regarding ratification. To date, 144 countries have ratified the Treaty. Ratifying countries held the Second Conference of the Parties to address Treaty implementation from November 30 to December 11, 1998.

CRS Reports:

- 98-576 ENR, *Desertification Treaty: Evolution, Status, and Key Issues*.

CRS Contacts:

Carol Hardy Vincent at 7-8651.

Strategic and Critical Materials

The National Defense Stockpile was authorized to supply military, industrial, and essential civilian materials requirements in times of national emergency, and to decrease or preclude (when possible) dangerous and costly dependence upon foreign sources of such materials. It is currently composed of 80 commodities, valued at \$4.05 billion (as of Sept. 30, 1998). The FY1993 National Defense Authorization Act directed disposal over 5 years of \$3.7 billion of strategic and critical materials deemed excess to U.S. requirements. To date, DoD has disposed of \$2.56 billion of excess materials (ranging from \$322 million in FY1993 to \$513 million in FY1997). Cumulative sales of stockpile materials since the stockpile program began in 1939 (through FY1999) total \$10.81 billion, while acquisitions cost \$7.64 billion.

The revised FY1999 annual materials plan proposes the disposal of 47 excess stockpile materials. The 1997 *Report of the Secretary of Defense on Stockpile Requirements* recommended a reduction in stockpile goals from the \$3.3 billion goal established in FY1992 to only \$43.8 million, citing a lack of significant national security threats. Unless new security threats emerge or Congress decides that retaining the stockpile of materials to meet unforeseen national emergencies justifies

maintaining it, additional stockpile sale authorizations seem likely, and disposals will probably continue at current or higher levels.

CRS Reports:

- 95-5 ENR, *The National Defense Stockpile: A Historical Perspective*.

CRS Contact:

Rick Greenwood at 7-7236.

Appendix: Selected Appropriations for FY1996, FY1997, FY1998, and FY1999

Department of the Interior and Related Agencies Appropriations (in millions of dollars)

Title I: Department of the Interior

Bureau or Agency	FY1996 PL 104- 134	FY1997 PL 104- 208	FY1998 PL 105-83	FY1999 PL 105- 277
Bureau of Land Management	1,106.0	1,195.6	1,136.0	1,190.7
U.S. Fish and Wildlife Service	645.8	670.6	772.5	802.2
National Park Service	1,367.7	1,435.9	1,655.1	1,748.2
U.S. Geological Survey	732.2	740.1	760.4	797.9
Minerals Management Service	189.0	163.4	150.3	124.0
Office of Surface Mining Reclamation and Enforcement	269.9	271.8	273.1	278.8
Bureau of Indian Affairs	1,588.4	1,618.3	1,703.3	1,746.4
Departmental Offices	236.2	240.0	250.1	266.1
Total, Title I	6,199.1	6,335.6	6,700.7	6,954.3

Title II: Related Agencies

Bureau or Agency	FY1996 PL 104- 134	FY1997 PL 104- 208	FY1998 PL 105- 83	FY1999 PL 105- 277
Forest Service	2,363.2	2,919.6	2,565.6	2,751.9

Source: CRS Report 98-206 ENR, *Appropriations for FY1998: Interior and Related Agencies*.

**Departments of Commerce, Justice, and State,
the Judiciary and Related Agencies Appropriations**
(in millions of dollars)

Title II: Department of Commerce and Related Agencies

Bureau or Agency	FY1996 PL 104- 134	FY1997 PL 104- 208	FY1998 PL 105- 119	FY1999 PL 105-277
National Oceanic and Atmospheric Administration	1,859.0	1,930.0	2,002.1	2,166.0

Source: CRS Report 97-209 E, *Appropriations for FY1998: Commerce, Justice, and State, the Judiciary, and Related Agencies*.

Energy and Water Development Appropriations

(in millions of dollars)

Title I: Department of Defense

Civil Corps of Engineers

Program	FY1996 PL 104- 46	FY1997 PL 104- 206	FY1998 ^a PL 105- 62	FY1999 PL 105- 245
Investigations	121.8	153.9	156.8	161.7
Construction	804.6	1,081.9	1,473.4	1,429.9
Flood Control, Mississippi River	307.9	310.4	296.2	321.1
Operation and Maintenance	1,703.7	1,697.0	1,740.0	1,653.3
Regulatory	101.0	101.0	106.0	106.0
Flood Control and Coastal Emergencies	10.0	10.0	4.0	0.0
General Expenses			148.0	148.0
FUSRAP	152.3	149.0	140.0 ^b	140.0
Total, Corps of Engineers	3,201.3	3,503.2	4,169.6	3,860.0

^a FY1998 budget request includes full construction funding.

^b Transferred from Department of Energy, Title III, Formerly Utilized Sites Remedial Action Program (FUSRAP).

Title II: Department of the Interior

Central Utah Project Completion Account

Program	FY1996 PL 104- 46	FY1997 PL 104- 206	FY1998 PL 105- 62	FY1999 PL 105- 245
Central Utah Project Completion	18.9	31.9	28.8	25.7
Utah Reclamation Mitigation/Conservation	5.5	11.7	11.6	15.5
Program Administration	1.2	0.0	0.8	1.3
Total, Central Utah Project	44.1	43.6	41.2	42.5

Bureau of Reclamation

Program	FY1996 PL 104- 46	FY1997 PL 104- 206	FY1998 PL 105- 62	FY1999 PL 105-245
Construction	411.0 ^a	394.1	—	—
Operation and Maintenance	273.1	267.9	—	—
Loan Program Account	11.7	12.7	10.4	8.4
General Investigations	12.7	16.7	—	—
General Administration Expenses	48.1	46.0	47.6	47.0
Central Valley Project Restoration Fund	43.6	38.0	33.1	33.1
Water and Related Resources	—	—	694.4	617.0
California Bay-Delta	—	—	85.0	75.0
Total, Bureau of Reclamation	800.2	775.4	870.5	780.5

^a Excludes \$8.1 million in P.L. 103-134 (+\$90 million for Folsom Gate; -\$0.9 million recission).

Source: CRS Report 98-207 ENR, *Appropriations for FY1999: Energy and Water Development*.